REQUEST FOR RECONSIDERATION

The Official Action has required the election of one of the following groups:

Group I, Claims 1-6, 11-15, 21 and 23, drawn to a compound and complexes containing the compound (Group I); and

Group II, Claims 7-10 and 22, drawn to to a method of using the compound to detect non-canonical nucleic acid sequences (Group II);

Group III, Claims 16, 17, and 24 , drawn to a method of using the compound to detect or measure protein-nucleic acid interactions (Groups III) ; and

Group IV, Claims 18-20 and 25, drawn to a method of using the compound to purify a nucleic acid-nickel-complex adduct.

In responding to the restriction requirement, applicants hereby elect, with traverse, Group I, Claims 1-6, 11-15, 21 and 23.

In responding to the election of species requirement, Applicants also elect with traverse, the species drawn to a compound and complexes containing the compound A. This election is being made with the understanding that, upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all of the limitations of an allowable generic claim (37 CFR 1.141).

New claim 26 has been added consistent with the above provisional elections.

Groups I-IV are said to not relate to a "single general inventive concept" under PCT Rule 13.1, because they lack the same or corresponding special technical features as required by PCT Rule 13.2. In particular:

> Group I and Groups II-IV are patentably distinct from one another and lack unity of invention. . . . The invention of Group I can be used in a 'materially different method' than that of Group II, i.e., can be used in the methods of Group III or IV. The invention of Group I can be used in a 'materially different method' than that of Group III, i.e., can be used in the methods of Groups II or IV. The invention of Group I can be used in a 'materially different method' than that of Group IV, i.e., can be used in the methods of Groups II or III. The methods of Groups II, III and IV are patentably distinct from each other and lack of invention because of the materially different reagents involved (Group II uses non-canonical nucleic acid sequences, Group III uses protein complexes and nucleic acid solutions, and Group IV uses nucleic acid-nickel complex adducts) and . . . the materially different results achieved (Group II detects a non-canonical nucleic acid sequence, Group III detects an interaction; and Group IV purifies a complex.) Pages 2 and 3, bridging paragraph of the Restriction Requirement of May 19, 2006.

However, the above assertions are respectfully refuted for the following reasons.

First, the Examiner merely asserts that the methods of Groups II, III and IV are 'materially different' because each uses a 'materially different reagent' and has a 'materially different result' from the others.

However, all of these methods are predicated upon a single technical feature, i.e., a nickel reagent having a square planar, four-coordinate system linked to a detectable label, which is capable of oxidative coupling to a nucleic acid target sequence. By detecting the label, one may isolate the bound DNA region. This single technical feature may be used to 1) detect non-canonical nucleic acid sequence (Group II), 2) detect or measure protein-nucleic acid interactions (Group III) or 3) purify a nucleic-acid-nickel-complex adduct. Thus, these results are not 'materially different' as they arise from the same technical (structural) feature as noted above.

Further, the 'materially different reagents' noted by the Examiner, in fact, use the same technical feature to obtain the results noted. Hence, the methods of Groups II, III and IV are not 'materially different' for purposes of refuting unity of invention.

Secondly, 37 CFR § 1.475(c) provides that:

> (c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present [Emphasis added].

That is, the presence of claims to more than one method does not *per se* negate unity of invention as suggested by the Examiner.

To the contrary, 37 CFR § 1.475(e) makes clear that no such *per se* rule exists since:

> (e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim [Emphasis added].

Additionally, for purposes of compound species election, the compounds of formula A are provisionally elected with traverse.

The Examiner has required election from among compounds of the formula A, B or C being of the view that these compounds are patentably distinct from one another and lack unity of invention because of their materially different structures.

However, as noted above compounds A, B and C all share the common and significant structural feature of a nickel reagent having a square planar, four-coordinate system. Hence, it is urged that the search and examination of all of compounds A, B and C would be appropriate. At the very least, the search and examination of compounds A and B would seem minimally required in view of the similar nature of the ring structures

of compounds A and B and a reasonable interpretation of 37 CFR § 1.475(e) and PCT Rules 13.1 and 13.2.

CONCLUSION

In light of the above, it is urged that this application is now in condition for examination on the merits. Favorably reconsideration is earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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